

REMARKS

I. Introduction

In response to the Office Action dated August 4, 2009, claims 1, 5, 21, 25, 41 and 45 have been amended. Claims 1, 3-9, 11-21, 23-29, 31-41, 43-49 and 51-60 remain in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Rejections under 35 U.S.C. §112

On pages 2-3 of the Office Action, claims 1, 3-9, 11-21, 23-29, 31-41, 43-49 and 51-60 are rejected under 35 U.S.C. §112, sixth paragraph, as it is unclear whether the recited structure, material, or acts are sufficient for performing the claimed function which would preclude application of 35 U.S.C. §112, sixth paragraph.

Applicant's attorney has amended the claims as indicated above to overcome these rejections.

III. Statutory Subject Matter Rejections

On pages 3-4, the Office Action, claims 1, 3-9, 11-21, 23-29, 31-41, 43-49 and 51-60 are rejected under 35 U.S.C. §101 because the claimed invention is not directed to a secondary statutory subject matter/class. Specifically, the Office Action states that the "Examiner notes that steps (c), (d) and (e) do not involve performance by a computer.

Applicant's attorney respectfully disagrees. In Applicant's independent claims 1, 21 and 41, both the "(a) selecting ... data stored in a database" and "(b) performing ... Net Present Value (NPV) calculations" are explicitly performed by "one or more computers." Elements (c), (d) and (e) in each of the independent claims further define the steps or functions of element (b), namely the "NPV calculations." Because the NPV calculations of element (b) are performed by computers, so too are elements (c), (d) and (e) performed by computers. Consequently, Applicant's attorney requests withdrawal of these rejections.

However, should issues still remain in this regard, Applicant's attorney requests that the Examiner indicate how the rejection can be overcome, in accordance with the directives of the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (Guidelines) II. See also M.P.E.P. §2106 at page 2100-5.

IV. Non-Statutory Obviousness-Type Double Patenting Rejections

On pages 5-6 of the Office Action, claims 1, 3-9, 11-21, 23-29, 31-41, 43-49 and 51-60 are rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over the claims of co-pending Application Nos. 10/644,169, 10/644,421, 10/644,131, and 10/644,171.

Applicant's attorney is submitting herewith Terminal Disclaimers under 37 C.F.R. §1.321 to overcome these rejections.

V. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. Please charge all fees to Deposit Account No. 50-4370 of Teradata Corporation (the assignee of the present application).

Respectfully submitted,

GATES & COOPER LLP
Attorneys for Applicants

Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, California 90045
(310) 641-8797

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By: /George H. Gates/
Name: George H. Gates
Reg. No.: 33,500